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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/837812	01/22/97	SAAVEIRA	61192
EXAMINER			

BRUCE N BAGALA
LEYDIG VOIT AND MAYER
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HM42/0602

RECEIVED
JUN 8 - 1998
LEYDIG, VOIT & MAYER

ART UNIT	PAPER NUMBER
	7

This is a communication from the examiner in charge of your application.
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OFFICE ACTION SUMMARY

FINAL

- ☒ Responsive to communication(s) filed on FEBRUARY 18, 1998
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1, 5-15, 19-27, 31-38 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 5-15, 19-27, 31-38 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

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DOCKETING
DATE: 6-8-98
BY: SPH
DUE DATE: 9-2-98

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

Art Unit: 1615

The Amendment submitted February 18, 1998 has been entered.

Claims 1, 5-15, 19-27 and 31-38 are rejected under 35 U.S.C. 112, 2.

The claimed polymer-nitric oxide reaction is not defined in terms which describe the disclosed polymeric derivative.

For instance, the product of the working examples is one in which the C-terminus of a peptide is required. The claims are not limited to polymers containing a peptide linkage which is covalently bonded through same to the nitric oxide functional group. The Applicants' description of the invention at page 28, bottom is as follows - "the attachment of a preformed NONOATE containing a nucleophilic nitrogen atom to the C-terminus of a peptide, polypeptide or protein". Claims limited to this feature are considered to necessary to define the disclosed product.

Claims 1, 5-15, 19-27, 31-38 are rejected in view of Judicially created policy as defining polymer products which constitute an improper Markush group.

The polymers of the claims have physical and chemical structure which would be the subject of separate areas of investigation and experimentation and are useful for diverse purposes.

Art Unit: 1615

Nucleic acid, "hormone" or "anti-chemotactic agent" are not of definite chemical structures and are unobvious from one another when considered as possible equivalent compounds to be derivatized.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

KULKOSKY; aco
May 22, 1998
May 28, 1998

A handwritten signature in black ink, appearing to read 'P. Kulkosky', with a stylized, cursive script.

**PETER F. KULKOSKY
PRIMARY EXAMINER**